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GROUP 180

William M. Smith
Townsend and Townsend
One Market Plaza
Steuart Street Tower
San Francisco, CA 94105

January 3, 1991

In re Application of:
Queen et al.
Serial Number: 07/310,252
Filed: February 13, 1989
For: Designing Improved Humanized
Immunoglobulins

DECISION
ON
PETITION

This is a decision on the petition, filed October 26, 1990, to withdraw the holding of abandonment, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is GRANTED.

The file record discloses that an Office action was mailed November 7, 1989. However, the petitioner contends that that Office action was never received. In support of this contention, the petition sets forth the procedure used in docketing mail received from the Patent and Trademark Office. In addition, copies of items on which the Office action would have been entered, had it been received, accompany the petition. The exhibits corroborate nonreceipt of the Office action.

In view of the facts set forth in the petition, it is concluded that the Office action was never received. Accordingly, the Office action of November 7, 1989 is rescinded and the holding of abandonment is withdrawn.

The application is being returned to the examiner for the remailing of the Office action of November 7, 1989.

Edward E. Kubasiewicz
Director, Group 180